

### REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the present amendment and in light of the following discussion, is respectfully requested.

Claims 1-18 are pending. In the present amendment, Claims 1, 4, 5, 8, 9, 11 and 14-17 are currently amended and Claim 19 is canceled without prejudice or disclaimer. Support for the present amendment can be found in the present specification, for example, at page 10, lines 4-13, and in Figure 1. Thus, it is respectfully submitted that no new matter is added.

In the outstanding Office Action, Claims 1, 2, 6, and 7 were rejected under 35 U.S.C. § 102(b) as anticipated by Shaw et al. (U.S. Patent No. 3,112,005, hereinafter “Shaw”); Claims 11, 18, and 19 were rejected under 35 U.S.C. § 102(b) as anticipated by Görke (U.S. Patent No. 4,338,489); Claims 3, 4, and 10-14 were rejected under 35 U.S.C. § 103(a) as unpatentable over Shaw; and Claims 5, 8, 9, 15, and 16 were rejected under 35 U.S.C. § 103(a) as unpatentable over Shaw in view of Bargo (U.S. Patent No. 7,311,957).

Turning now to the rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a), Applicant respectfully requests reconsideration of these rejections and traverses these rejections, as discussed below.

Amended Claim 1 recites, in part, “a baffle portion forming outer edges of the headphone apparatus and surrounding a space except a front opening portion of a driver unit, the baffle portion being formed of an air-permeable porous material such that air from outside the apparatus permeates through the material and external sound is prevented from being trapped interior to the baffle portion, degrading sound quality.” It is respectfully submitted that the cited references do not disclose or suggest every feature recited in amended Claim 1.

In contrast Shaw describes a driver unit 6 rigidly attached to a cup 1 and that a “porous sound absorbing material completely fills the region of the cup surrounding the back

part of the driver unit 6.”<sup>1</sup> The porous sound absorbing material forms a conical-shaped outer surface 63 (asserted in the Office Action as corresponding to the claimed baffle portion) around the driver unit 6. However, as shown in Fig. 16 of Shaw, the surface 63 is located inside the rigid cup 1. Thus, the surface 63 does not form “outer edges of the headphone apparatus,” as recited in amended Claim 1. Further, Shaw does not disclose or suggest that the rigid cup 1 is air permeable and thus the combination of the outer surface 63 and the rigid cup 1 does not disclose the claimed baffle portion. Thus, it is respectfully submitted that Shaw does not disclose or suggest every feature recited in Claim 1. Accordingly, it is respectfully requested that the rejection of Claim 1, and all claims dependent thereon, as anticipated by or unpatentable over Shaw be withdrawn.

Claim 11 is amended to depend from Claim 1. Accordingly, it is respectfully submitted that Claim 11 is patentable for at least the reasons discussed above with respect to Claim 1. With respect to the rejection of Claim 11 as unpatentable over Shaw, it is noted that Shaw teaches away from the claimed headphone apparatus because the porous material 60 of Shaw has a “**resistance to air flow**.” Thus, it is respectfully submitted that the official notice taken in paragraph 14 on page 5 of the Office Action that a sound-permeable material would necessarily be air-permeable is contradicted by Shaw. Additionally, for example, a solid wood wall could be sound-permeable and made of a porous material without being air-permeable. Thus, the fact that a sound-permeable, porous material would require the material to be air-permeable is not believed to be common knowledge or well-known in the art. Accordingly, it is respectfully requested that if this position is to be maintained, the next Office Action provide evidence in support of the official notice taken with respect to Claim 11.

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<sup>1</sup> See Shaw, at col. 13, lines 5-9.

Further, it is respectfully submitted that Görke does not cure the above-noted deficiencies of Shaw. Accordingly, it is respectfully requested that the rejection of Claim 11 be withdrawn.

Regarding the rejection of Claims 5, 8, 9, 15, and 16 as unpatentable over Shaw in view of Bargo, it is noted that Claims 5, 8, 9, 15, and 16 are dependent on Claim 1, and thus are believed to be patentable for at least the reasons discussed above with respect to Claim 1.

Further, it is respectfully submitted that Bargo does not cure any of the above-noted deficiencies of Shaw. Applicant also respectfully disagrees with and traverses the official notice taken by the Examiner in paragraphs 22 and 23 on page 8 of the Office Action that the adhesive layer of Bargo is air permeable. Bargo describes a sound absorbing material 10 including a mix of fibers 12, 14. However, Bargo does not disclose or suggest that the material 10 is air-permeable with or without the face cloth 20, and also teaches away from the material 10 being air-permeable. Bargo describes the need for the material 10 to “pass the flame tests of automobile manufacturers.”<sup>2</sup> Thus, it is respectfully submitted that an air-permeable material would be likelier to fail a flame test because such a material would allow flames and smoke to pass through. Additionally, Fig. 3 of Bargo shows the face cloth 20 applied to the material 10. As seen in Fig. 3 of Bargo, the composite layers including material 10 and face cloth 20 shows a structure without any holes to suggest air permeability. Accordingly, it is respectfully submitted that Claims 5, 8, 9, 15, and 16 are patentable.

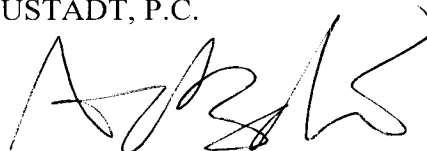
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<sup>2</sup> See Bargo, at col. 1, lines 51-55.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. A Notice of Allowance is earnestly solicited.

Respectfully submitted,

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